

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

The United States of America for the)
Use and Benefit of Bonitz Contracting) C/A NO.: 2:13-cv-2912-SB
Company, Inc.,)
)
Plaintiff,)
)
vs.)
)
Hightower Construction Co., Inc.; K)
Corp Support Services, Inc.; and John)
Doe Surety,)
)
Defendants.)
)

The Use Plaintiff, Bonitz Contracting Company, Inc., complaining of the Defendants, Hightower Construction Co., Inc. ("Hightower"); K Corp Support Services, Inc. ("K Corp") and John Doe Surety alleges that:

1. This action is brought pursuant to Title 40 U.S.C. § 270(b) commonly referred to as the Miller Act.

2. This Court has jurisdiction over of the subject matter of this action pursuant to provisions of the Miller Act.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2) and 40 U.S.C. § 270(b)

4. The Use Plaintiff, Bonitz Contracting Company, Inc. is a South Carolina corporation with its principal place of business in Columbia, South Carolina.

5. The Defendant, John Doe Surety, is a compensated surety which issued Miller Act payment bonds required by a contract Hightower or K Corp had with the

Department of State on which Bonitz Contracting supplied labor and materials, as will be more particularly set forth herein. Plaintiff was unable to identify the John Doe surety through a Freedom of Information Act request. Upon information and belief, Hightower or K Corp provided a bond on the project.

6. The Defendant, Hightower, is upon information and belief a South Carolina corporation with its principal place of business in Charleston, South Carolina. The Defendant K Corp is upon information and belief a corporation organized pursuant to the laws of a state other than South Carolina. Hightower or K Corp contracted with the Department of State for the construction of certain improvements to Department of State Building A in Charleston, South Carolina.

**FOR A FIRST CAUSE OF ACTION
(Miller Act Bond Action)**

7. Bonitz Contracting Company, Inc. realleges the above allegations as if repeated herein verbatim.

8. Bonitz Contracting Company, Inc. contracted with Hightower to provide labor and materials which were used to make improvements to the Department of State's Building A 1st floor renovation in Charleston, South Carolina.

9. Bonitz Contracting last rendered services and supplied materials to the project on July 31, 2013.

10. Bonitz Contracting is due \$280,875.70 for work performed.

11. Bonitz Contracting has demanded payment from Hightower and notified K Corp of this demand. Hightower and K Corp have failed and refused to pay the full amount due.

12. Hightower or K Corp as principal and John Doe Surety, as surety on the Miller Act payment bonds, are liable to Bonitz Contracting for the amount due of \$280,875.00.

**FOR A SECOND CAUSE OF ACTION
(Recovery of Attorney Fees)**

13. The Plaintiff realleges the above paragraphs as if repeated herein verbatim.

14. Demand has been made upon the Defendant Hightower pursuant to S.C. Code § 27-1-15.

15. The Defendant failed to conduct a reasonable investigation and failed pay all undisputed amounts.

16. Bonitz Contracting Company, Inc. is entitled to attorney's fees, interest and costs pursuant to S.C. Code § 27-1-15.

**FOR A THIRD CAUSE OF ACTION
(Breach of Contract)**

17. The Plaintiff realleges the above paragraphs as if repeated herein verbatim.

18. Hightower's failure to pay the Plaintiff for work performed is a breach of the contract.

19. Based on Hightower's breach of contract, Bonitz Contracting is entitled to \$280,875.70 plus interest.

WHEREFORE the Plaintiff, prays for judgment against the Defendants in the amount of \$280,875.70 together with attorney's fees, prejudgment interest and the costs

and disbursements of this action and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

s/ Franklin J. Smith, Jr.

Franklin J. Smith, Jr., Federal Ct. I.D. #3898
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ATTORNEYS FOR THE PLAINTIFF
Bonitz Contracting Company, Inc.

October 24, 2013
Columbia, South Carolina